

1904, art. 93, sec. 18. 1888, art. 93, sec. 18. 1860, art. 93, sec. 18. 1798, ch. 101, sub-ch. 5, sec. 10. 1898, ch. 331.

18. If the intestate leave a surviving husband or widow, as the case may be, and a child, or children, administration at the discretion of the court shall be granted either to the surviving husband or widow as the case may be, or child, or one of the children.

Where one of a class of persons is entitled there is no priority of right based on seniority. The choice is in the discretion of the orphans' court, and no appeal lies. *Bowie v. Bowie*, 73 Md. 234; *Kaller v. Kaller*, 92 Md. 149.

Where the children are minors, the widow is entitled. *Slay v. Beck*, 107 Md. 360.

A temporary absence from the state will not disentitle a daughter to administer. *Owings v. Bates*, 9 Gill, 465.

As to to what extent the fact that the applicant is a debtor, or both a debtor and creditor of the estate, will affect the discretion vested in the court, see *Kaller v. Kaller*, 92 Md. 150; *Owings v. Bates*, 9 Gill, 466.

The fact that a party entitled has no interest in the estate is immaterial. *Williams v. Addison*, 93 Md. 45; *McColgan v. Kenny*, 68 Md. 259.

If a wife by an *ante-nuptial* contract releases all interest in her husband's estate, she is not entitled to letters. *Edelen v. Edelen*, 11 Md. 416; *Maurer v. Naill*, 5 Md. 324; *cf. Ward v. Thompson*, 6 G. & J. 349.

This section referred to in deciding that a waiver of a right to administer, is a sufficient consideration for a promise to administer without compensation. *Mott v. Fowler*, 85 Md. 678. And see *Bassett v. Miller*, 8 Md. 550; *Brown v. Stewart*, 4 Md. Ch. 368.

Only in the cases spoken of in this section and section 31, are letters to be granted "at the discretion of the court." *Smith v. Young*, 5 Gill, 205.

This section referred to in construing section 32—see notes thereto. *Ehlen v. Ehlen*, 64 Md. 362.

Cited but not construed in *Williams v. Addison*, 93 Md. 45; *Pollard v. Mohler*, 55 Md. 289; *Georgetown College v. Browne*, 34 Md. 455; *Stocksdale v. Conaway*, 14 Md. 106.

See notes to sec. 19.

*Ibid.* sec. 19. 1888, art. 93, sec. 19. 1860, art. 93, sec. 19. 1798, ch. 101, sub-ch. 5, sec. 11. 1898, ch. 331.

19. If there be a surviving husband or widow, as the case may be, and no child, the surviving husband or widow, as the case may be, shall be preferred, and next to the surviving husband or widow, as the case may be, or children, a grandchild shall be preferred.

A widow will be granted letters although she and her husband had separated. *Nusz v. Grove*, 27 Md. 400.

This section referred to in construing section 32—see notes thereto. *Ehlen v. Ehlen*, 64 Md. 362.

Cited but not construed in *Williams v. Addison*, 93 Md. 45; *Pollard v. Mohler*, 55 Md. 289; *Georgetown College v. Browne*, 34 Md. 455.

See notes to sec. 18.

*Ibid.* sec. 20. 1888, art. 93, sec. 20. 1860, art. 93, sec. 20. 1798, ch. 101, sub-ch. 5, sec. 12. 1898, ch. 331.

20. If there be neither surviving husband nor widow, as the case may be, nor child, nor grandchild, the father shall be preferred.

This section referred to in construing section 32—see notes thereto. *Ehlen v. Ehlen*, 64 Md. 362.

Cited but not construed in *Williams v. Addison*, 93 Md. 45; *Pollard v. Mohler*, 55 Md. 289; *Georgetown College v. Browne*, 34 Md. 455.

See notes to sections 18 and 21.